IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 14511 of 2003

Between:

1 S.C. Narayana Swamy S/o. S. Chinna Chandrappa
R/o. 20/241, Prabhakar Street, Old Town, Anantapur.
2 S. Anjaneyulu, S/o. S.C. Narayana Swamy

R/o. 20/241, Prabhakar Street, Old Town, Anantapur.
3 S. Raghunath, S/o. S.C. Narayanaswamy

4 S. Gopal, S/o. S.P. Narayanaswamy
R/o. 12/116-A2, III Cross, Sainagar, Ananthaur
5 S. Kumaraswamy S/o. S.P. Narayanaswamy

R/o. 12/116-A2, III Cross, Sainagar, Ananthapur.
6 S. Anjaneyulu S/o. S.P. Narayanaswamy

R/o. 12/116-A2, III Cross, Sainagar, Ananthapur

.... PETITIONERS

AND

1 The Director of Town & Country Planning,

Government of Andhra Pradesh, Saifabad, Hyderabad.
2 The Commissioner, Ananthapur Municipality,

Ananthapur.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of mandamus, declaring the action of the respondents in not either allotting the alternative sites in

L.P.No. 98/95, Ac.1-08 and in L.P. No. 394/83 Ac.0-45 totally ac.1-53 cents for exchange of excess land reserve of Ac.1-81 cents in L.P. No. 518/85 in S.No.315/1 or not paying the cash of compensation as per the market value or not deserving/restoring the land of Ac.1-81 cents to the petitioners as illegal, improper, unjust and contrary to law and consequently direct the respondents herein either to allot alternative land in L.P. No. 98/95 Ac.1-08 cents and in L.P. No. 394/83 ext. Ac.0-45 cents totally Ac.1-53 cents for exchange of excess land reserve of Ac. 1-81 cents in L.P.No. 518/85 in S.No.315/1 or to pay cash compensation as per market value or for deserving/restoration of the land to the petitioners herein.

Counsel for the Petitioners : MR. A.SHIREESH

Counsel for the Respondents : GP FOR MUNCIPAL ADMN. & URBAN DEV.

The Court made the following :

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O R D E R :

The petitioners herein are the owners of land admeasuring Acs.9-49 in Survey No.315/1 of Anantapur Town. They obtained approval of layout being L.P.No.518/85 from the first respondent. As per the approved layout an extent of Acs.2-75 was allotted to the Municipality for Primary School and 10% of the land has to be reserved. The Municipality agreed to compensate for Acs.1-81 which was provided in excess of the Regulation requirements. When it was not done, the petitioners made a representation to the first respondent. As no action was taken, the present writ petition is filed seeking a declaration that the action of the respondents in not allotting the alternative site in the layout for exchange of excess land or in not paying compensation as per the market value for Acs.1-81 of land, as illegal and arbitrary. They also sought for a consequential direction to the respondent to the same effect.

When the matter is pending before this Court, it is brought to my notice, the first respondent issued letter dated 18-11-2003 to the Government to the effect that the Municipality may return the excess open space provided in the layout as per the Master Plan, subject to approval of the Government. Further, it is also brought to my notice that on 16-6-2004 the Commissioner of Anantapur Municipality issued an endorsement to the first petitioner, which reads as under:

Sri S.C.Narayana Swamy and others, Anantapur are informed that the request to return the open space already handed over towards 10% of layout area to an extent of 0.94 AC is refused in view of Government Orders issued in G.O.Ms.No.72, M.A., dated 20-2-2002.

Regarding excess open space, they can utilise the same as per the land use specified in the Master Plan subject to approval of Government.

In view of the above, nothing prevents the petitioners to use Acs.1-81 of land which was utilized by the Municipality for any other purposes as per the land use specified in the Master Plan, subject to approval of the Government. Therefore, the petitioners may approach the Government to give approval for the proposals made by the Director of Town & Country Planning, first respondent herein, in his letter dated 18-11-2003. The Government may consider the proposal made by the first respondent and issue necessary orders within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations is disposed of. No costs.

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(V.V.S. RAO, J.)

Dt. 10-08-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Director of Town & Country Planning,

Government of Andhra Pradesh, Saifabad, Hyderabad.

2 The Commissioner, Ananthapur Municipality,

Ananthapur.

3. 2CCs to Government Pleader for Municipal Administration and

Urban Development, High Court of A.P., Hydeabad.

4. 2CD copies.

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14511 of 2003

Dt.10-08-2004.

(Msr)